A bill to be entitled

An act relating to transportation; creating s. 163.31803, F.S.; requiring local governments to issue mobility fee credits under a specified circumstance; creating s. 334.066, F.S.; establishing the Implementing Solutions from Transportation Research and Evaluating Emerging Technologies Living Lab (I-STREET) within the University of Florida; specifying the duties of I-STREET; requiring I-STREET to annually provide the Governor and the Legislature with a certain report; requiring the creation of a certain advisory board; specifying the composition of the board; amending s. 337.025, F.S.; providing that the Department of Transportation's program for innovative transportation projects may include progressive design-build contracts; authorizing the department to enter into a progressive design-build contract if it makes a certain determination; providing procedures and requirements for progressive design-build contracts; revising contracts exempt from a specified annual monetary cap on contracts; amending s. 337.107, F.S.; authorizing landowners to permit with the department to remove vegetation under specified circumstances; amending s. 337.11, F.S.; revising the department's authority relating to design-build

contracts; revising rulemaking authority; requiring specified department contracts to contain specified insurance provisions; amending s. 337.1101, F.S.; revising the calculation of a certain settlement paid to a nonselected responsive bidder; amending s. 337.14, F.S.; revising a dollar limit of proposed budget estimates of construction contracts for which an applying contractor may submit certain financial statements; revising procedures relating to certificates of qualification issued by the department to construction contractors seeking certification to bid on certain contracts; exempting progressive design-build prequalifications from a certain restriction on contractors and their affiliates; amending s. 337.168, F.S.; deleting a public records exemption for certain documents revealing the identity of a potential bidder; amending s. 338.165, F.S.; revising the length of time between when the department must revise its toll rates to inflation; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 163.31803, Florida Statutes, is created to read:

163.31803 Mobility fee credits for certain planned housing communities.—Pursuant to s. 163.31801, a local government must provide mobility fee credits to a residential developer for capital improvements to a transportation system that the Department of Transportation deems necessary to ensure the safe and efficient mobility of people, commerce, and goods to bring a planned housing community into service.

Section 2. Section 334.066, Florida Statutes, is created to read:

334.066 Implementing Solutions from Transportation Research and Evaluating Emerging Technologies Living Lab.—

(1) The Implementing Solutions from Transportation Research and Evaluating Emerging Technologies Living Lab (I-STREET) is established within the University of Florida.

(2) At a minimum, I-STREET shall:

(a) Conduct and facilitate research on issues related to innovative transportation mobility and safety technology development and deployment in this state and serve as an information exchange and depository for the most current information pertaining to transportation research, education, workforce development, and related issues.

(b) Be a continuing resource for the Legislature, the department, local governments, the nation's metropolitan regions, and the private sector in the area of transportation and related research.

(c) Promote intercampus transportation and related research activities among Florida universities to enhance the ability of these universities to attract federal and private sector funding for transportation and related research.

(d) Provide by July 1, 2023, and each July 1 thereafter, to the Governor, the President of the Senate, and the Speaker of the House of Representatives a comprehensive report that outlines its clearly defined goals and its efforts and progress on reaching those goals.

(3) An advisory board shall be created to periodically review and advise I-STREET concerning its research program. The board shall consist of nine members with expertise in transportation-related areas, as follows:

(a) A member appointed by the President of the Senate.

(b) A member appointed by the Speaker of the House of Representatives.

(c) The Secretary of Transportation or his or her designee.

(d) The Secretary of Economic Opportunity or his or her designee.

(e) A member of the Florida Transportation Commission.

(f) Four members nominated by the University of Florida's College of Engineering and approved by the university's president. The College of Engineering's nominees may include representatives of the University of Florida, other academic and

research institutions, or private entities.

Section 3. Section 337.025, Florida Statutes, is amended to read:

337.025 Innovative transportation projects; department to establish program.—

(1) The department may establish a program for transportation projects demonstrating innovative techniques of highway and bridge design, construction, maintenance, and finance which have the intended effect of measuring resiliency and structural integrity and controlling time and cost increases on construction projects. Such techniques may include, but are not limited to, state-of-the-art technology for pavement, safety, and other aspects of highway and bridge design, construction, and maintenance; innovative bidding and financing techniques; progressive design-build contracts as specified in subsection (2); accelerated construction procedures; and those techniques that have the potential to reduce project life cycle costs. To the maximum extent practical, the department must use the existing process to award and administer construction and maintenance contracts. When specific innovative techniques are to be used, the department is not required to adhere to those provisions of law that would prevent, preclude, or in any way prohibit the department from using the innovative technique. However, before using an innovative technique that is inconsistent with another provision of law, the department must

document in writing the need for the exception and identify what benefits the traveling public and the affected community are anticipated to receive. The department may enter into no more than $120 million in contracts awarded annually for the purposes authorized by this section.

(2) If the department determines that it is in the best interests of the public, the department may combine the design and construction phases of a project into a single contract and select the design-build firm in the early stages of a project to ensure that the design-build firm is part of the collaboration and development of the design as part of a step-by-step progression through construction. Such contract is referred to as a progressive design-build contract. For progressive design-build contracts, the selection and award processes must include a two-phase process. For phase one, the department shall competitively award the contract to a design-build firm based upon qualifications. For phase two, the design-build firm shall competitively bid construction trade subcontractor packages and, based upon these bids, negotiate with the department a fixed firm price or guaranteed maximum price that meets the project budget and scope as advertised in the request for qualifications.

(3) The annual cap on contracts provided in subsection (1) does not apply to:

(a) Turnpike enterprise projects.

(b) Progressive design-build contracts for complex, high-risk projects with a minimum contract value of $400 million ~~Low-bid design-build milling and resurfacing contracts~~.

Section 4. Section 337.107, Florida Statutes, is amended to read:

337.107 Contracts for right-of-way services.—

(1) The department may enter into contracts pursuant to s. 287.055 for right-of-way services on transportation corridors and transportation facilities. Right-of-way services include negotiation and acquisition services, appraisal services, demolition and removal of improvements, and asbestos-abatement services.

(2) For a construction project funded in the first 3 years of the department's adopted work program, a landowner with land contiguous to a limited access facility may be allowed, under a department-issued permit, to remove vegetation designated to be removed as part of the construction project on a department right-of-way in an area associated with a limited access facility, within the same limits of removal as identified in the final plans of the project.

Section 5. Subsections (15) and (16) of section 337.11, Florida Statutes, are renumbered as subsections (16) and (17) respectively, subsection (15) is added to that section, and paragraphs (a) and (b) of subsection (7) are amended to read:

337.11 Contracting authority of department; bids;

emergency repairs, supplemental agreements, and change orders; combined design and construction contracts; progress payments; records; requirements of vehicle registration.—

(7)(a) If the department determines that it is in the best interests of the public, the department may combine the design and construction phases of a ~~building, a major bridge, a limited access facility, or a rail corridor~~ project into a single contract. Such contract is referred to as a design-build contract. Design-build contracts may be advertised and awarded notwithstanding the requirements of paragraph (3)(c). However, construction activities may not begin on any portion of such projects for which the department has not yet obtained title to the necessary rights-of-way and easements for the construction of that portion of the project has vested in the state or a local governmental entity and all railroad crossing and utility agreements have been executed. Title to rights-of-way shall be deemed to have vested in the state when the title has been dedicated to the public or acquired by prescription.

(b) The department shall adopt by rule procedures for administering design-build contracts, including progressive design-build contracts. Such procedures shall include, but not be limited to:

1. Prequalification requirements.

2. Public announcement procedures.

3. Scope of service requirements.

4. Letters of interest requirements.

5. Short-listing criteria and procedures.

6. Bid proposal requirements.

7. Technical review committee.

8. Selection and award processes.

9. Stipend requirements.

(15) Each contract let by the department for performance of bridge construction or maintenance over navigable waters must contain a provision requiring general liability insurance, in an amount to be determined by the department, that covers third-party personal injury and property damage caused by vessels used by the contractor in the performance of the work.

Section 6. Subsection (1) of section 337.1101, Florida Statutes, is amended to read:

337.1101 Contracting and procurement authority of the department; settlements; notification required.—

(1) When the department, or any entity or enterprise within the department, determines that it is in the best interest of the public to resolve a protest filed in accordance with s. 120.57(3) of the award of a contract being procured pursuant to s. 337.11 or related to the purchase of personal property or contractual services being procured pursuant to s. 287.057, through a settlement that requires the department to pay a nonselected responsive bidder a total sum of $1 million or more, including any amount paid pursuant to s. 334.049, any

amount paid pursuant to s. 337.11(8) which is not included in the department's work program approved by the Legislature as part of the General Appropriations Act, or any amount paid pursuant to any other law, the department must:

(a) Document in a written memorandum by the secretary the specific reasons that such settlement and payment to a nonselected responsive bidder is in the best interest of the state. The written memorandum must be included and maintained in the department's permanent files concerning the procurement and must include:

1. A description of the property rights, patent rights, copyrights, trademarks, or the engineering design or other design work that the department will acquire or retain as a result of such settlement; and

2. The specific appropriation in the existing General Appropriations Act which the department intends to use to provide such payment.

(b) Provide prior written notification to the President of the Senate, the Speaker of the House of Representatives, the Senate and House of Representatives minority leaders, the chair and vice chair of the Legislative Budget Commission, and the Attorney General at least 5 business days, or as soon thereafter as practicable, before the department makes the settlement agreement final. Such written notification must include the written memorandum required pursuant to paragraph (a).

(c) Provide, at the time settlement discussions regarding any such payment have begun in earnest, written notification of such discussions to the President of the Senate, the Speaker of the House of Representatives, the Senate and House of Representatives minority leaders, the chair and vice chair of the Legislative Budget Commission, and the Attorney General.

Section 7. Subsections (1), (4), and (7) of section 337.14, Florida Statutes, are amended to read:

337.14 Application for qualification; certificate of qualification; restrictions; request for hearing.—

(1) Any contractor desiring to bid for the performance of any construction contract in excess of $250,000 which the department proposes to let must first be certified by the department as qualified pursuant to this section and rules of the department. The rules of the department must address the qualification of contractors to bid on construction contracts in excess of $250,000 and must include requirements with respect to the equipment, past record, experience, financial resources, and organizational personnel of the applying contractor which are necessary to perform the specific class of work for which the contractor seeks certification. Any contractor who desires to bid on contracts in excess of $50 million and who is not qualified and in good standing with the department as of January 1, 2019, must first be certified by the department as qualified and must have satisfactorily completed two projects, each in

excess of $15 million, for the department or for any other state department of transportation. The department may limit the dollar amount of any contract upon which a contractor is qualified to bid or the aggregate total dollar volume of contracts such contractor is allowed to have under contract at any one time. Each applying contractor seeking qualification to bid on construction contracts in excess of $250,000 shall furnish the department a statement under oath, on such forms as the department may prescribe, setting forth detailed information as required on the application. Each application for certification must be accompanied by audited, certified financial statements prepared in accordance with generally accepted accounting principles and auditing standards by a certified public accountant licensed in this state or another state. The audited, certified financial statements must be for the applying contractor and must have been prepared within the immediately preceding 12 months. The department may not consider any financial information of the parent entity of the applying contractor, if any. The department may not certify as qualified any applying contractor who fails to submit the audited, certified financial statements required by this subsection. If the application or the annual financial statement shows the financial condition of the applying contractor more than 4 months before the date on which the application is received by the department, the applicant must also submit interim audited,

certified financial statements prepared in accordance with generally accepted accounting principles and auditing standards by a certified public accountant licensed in this state or another state. The interim financial statements must cover the period from the end date of the annual statement and must show the financial condition of the applying contractor no more than 4 months before the date that the interim financial statements are received by the department. However, upon the request of the applying contractor, an application and accompanying annual or interim financial statement received by the department within 15 days after either 4-month period under this subsection shall be considered timely. An applying contractor desiring to bid exclusively for the performance of construction contracts with proposed budget estimates of less than $2 ~~$1~~ million may submit reviewed annual or reviewed interim financial statements prepared by a certified public accountant. The information required by this subsection is confidential and exempt from s. 119.07(1). The department shall act upon the application for qualification within 30 days after the department determines that the application is complete. The department may waive the requirements of this subsection for projects having a contract price of $500,000 or less if the department determines that the project is of a noncritical nature and the waiver will not endanger public health, safety, or property.

(4) If the applicant is found to possess the prescribed

qualifications, the department shall issue to him or her a certificate of qualification that, unless thereafter revoked by the department for good cause, will be valid for a period of 18 months after the date of the applicant's financial statement or such shorter period as the department prescribes. Submission of an application does ~~and subsequent approval do~~ not affect expiration of the certificate of qualification~~, the ability factor of the applicant, or the maximum capacity rating of the applicant~~. An applicant may submit a written request with a timely submitted application to keep an existing certificate of qualification in place until the expiration date. If the request is approved by the department, the current maximum capacity rating of the applicant must remain in place until expiration of the current certificate of qualification. If the department finds that an application is incomplete or contains inadequate information or information that cannot be verified, the department may request in writing that the applicant provide the necessary information to complete the application or provide the source from which any information in the application may be verified. If the applicant fails to comply with the initial written request within a reasonable period of time as specified therein, the department shall request the information a second time. If the applicant fails to comply with the second request within a reasonable period of time as specified therein, the application shall be denied.

(7) A "contractor" as defined in s. 337.165(1)(d) or his or her "affiliate" as defined in s. 337.165(1)(a) qualified with the department under this section may not also qualify under s. 287.055 or s. 337.105 to provide testing services, construction, engineering, and inspection services to the department. This limitation does not apply to any design-build, including progressive design-build, prequalification under s. 337.11(7) and does not apply when the department otherwise determines by written order entered at least 30 days before advertisement that the limitation is not in the best interests of the public with respect to a particular contract for testing services, construction, engineering, and inspection services. This subsection does not authorize a contractor to provide testing services, or provide construction, engineering, and inspection services, to the department in connection with a construction contract under which the contractor is performing any work. Notwithstanding any other provision of law to the contrary, for a project that is wholly or partially funded by the department and administered by a local governmental entity, except for a seaport listed in s. 311.09 or an airport as defined in s. 332.004, the entity performing design and construction engineering and inspection services may not be the same entity.

Section 8. Subsection (2) of Section 337.168, Florida Statutes, is amended to read:

337.168 Confidentiality of official estimates~~, identities~~

~~of potential bidders,~~ and bid analysis and monitoring system.—

~~(2) A document that reveals the identity of a person who has requested or obtained a bid package, plan, or specifications pertaining to any project to be let by the department is confidential and exempt from the provisions of s. 119.07(1) for the period that begins 2 working days before the deadline for obtaining bid packages, plans, or specifications and ends with the letting of the bid. A document that reveals the identity of a person who has requested or obtained a bid package, plan, or specifications pertaining to any project to be let by the department before the 2 working days before the deadline for obtaining bid packages, plans, or specifications remains a public record subject to s. 119.07(1).~~

Section 9. Subsection (3) of section 338.165, Florida Statutes, is amended to read:

338.165 Continuation of tolls.—

(3) Notwithstanding any other provision of law, the department, including the turnpike enterprise, shall index toll rates on existing toll facilities to the annual Consumer Price Index or similar inflation indicators. Toll rate adjustments for inflation under this subsection may be made no more frequently than once a year and must be made no less frequently than once every 10 ~~5~~ years ~~as necessary to accommodate cash toll rate schedules~~. Toll rates may be increased beyond these limits as directed by bond documents, covenants, or governing body

authorization or pursuant to department administrative rule.

Section 10. This act shall take effect July 1, 2022.